

MAIL TO:

STATE OF UTAH
 DIVISION OF PURCHASING
 3150 STATE OFFICE BUILDING, CAPITOL HILL
 P.O. BOX 141061
 SALT LAKE CITY, UTAH 84114-1061
 TELEPHONE (801) 538-3026
 FAX (801) 538-3882
<http://purchasing.utah.gov>

Request for QuotationSolicitation Number: **NO4075**Due Date: **03/18/04**

Date Sent: March 9, 2004

Agency Contract

Goods and services to be
 purchased:

AGENCY CONTRACT-PUBLIC INVOLVEMENT/INFORMATION MANAGER**Please complete**

Company Name		Federal Tax Identification Number	
Ordering Address	City	State	Zip Code
Remittance Address (if different from ordering address)	City	State	Zip Code
Type <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Proprietorship <input type="checkbox"/> Government	Company Contact Person		
Telephone Number (include area code)	Fax Number (include area code)		
Company's Internet Web Address	Email Address		
Discount Terms (for bid purposes, bid discounts less than 30 days will not be considered)	Days Required for Delivery After Receipt of Order (see attached for any required minimums)		
<p>The following documents are included in this solicitation: Solicitation forms, instructions and general provisions, and specifications. <u>Please review all documents carefully before completing.</u></p> <p>The undersigned certifies that the goods or services offered are produced, mined, grown, manufactured, or performed in Utah. Yes_____ No_____. If no, enter where produced, etc._____</p>			
Offeror's Authorized Representative's Signature		Date	
Type or Print Name		Position or Title	

**STATE OF UTAH
DIVISION OF PURCHASING**

Request for Quotation

Solicitation Number: NO4075

Due Date: 03/18/04

Vendor Name:

Description
AGENCY CONTRACT-PUBLIC INVOLVEMENT/INFORMATION MANAGER TO PERFORM PUBLIC INVOLVEMENT AND INFORMATIONAL DUTIES CONNECTED WITH THE CONSTRUCTION ACTIVITIES AT I-80 AND 700 EAST, PER THE ATTACHED BID SPECIFICATIONS.
\$_____ TOTAL COST
QUESTIONS ON SPECIFICATIONS CALL JAMES PHILLIPS AT (801) 965-3836. QUESTIONS ON PURCHASING PROCESS (NOT RELATED TO SPECIFICATIONS) CALL NANCY ORTON AT (801) 538-3148. RX: 810 46000000119 COMMODITY CODE: 91503

1. QUOTATION PREPARATION: (a) All prices and notations must be in ink or typewritten. (b) Price each item separately. Unit price shall be shown and a total price shall be entered for each item bid. Errors may be crossed out and corrections printed in ink or typewritten adjacent and must be initialed in ink by person signing quotation. (c) Unit price will govern, if there is an error in the extension. (d) Delivery time is critical and must be adhered to as specified. (e) Wherever in this document an item is defined by using a trade name of a manufacturer and/or model number, it is intended that the words, "or equivalent" apply. "Or equivalent" means any other brand that is equal in use, quality, economy and performance to the brand listed as determined by the Division of Purchasing & General Services (DIVISION). If the vendor lists a trade name and/or catalog number in the bid, the DIVISION will assume the item meets the specifications unless the quote clearly states it is an alternate, and describes specifically how it differs from the item specified. All quotes must include complete manufacturer's descriptive literature if quoting an equivalent product. All products are to be of new, unused condition, unless otherwise requested in this solicitation. (f) By signing the quotation the vendor certifies that all of the information provided is accurate, that they are willing and able to furnish the item(s) specified, and that prices quoted are correct. (g) This quote may not be withdrawn for a period of 60 days from quote due date. (h) Incomplete quotes may be rejected.

2. SUBMITTING THE QUOTATION: (a) The quote must be signed in ink and returned to the DIVISION OF PURCHASING, 3150 State Office Building, Capitol Hill, Salt Lake City, UT 84114-1061 or faxed to (801) 538-3882 by the due date and time. **The "Solicitation Number" and "Due Date" must appear on the outside of the envelope or on the fax cover page.** (b) The state will consider faxed quotes. Faxed quotes are submitted at the sole option and risk of the vendor and must be responsive to all conditions and specifications included in the Request for Quotation (RFQ). Access to state facsimile machine is on a "first come first served" basis and the state does not guarantee the vendor's access to the machine at any particular time. (c) All prices quoted must be both F.O.B. Origin and F.O.B. Destination. Additional charges including but not limited to delivery, drayage, express, parcel post, packing, cartage, insurance, license fees, permits, costs of bonds, or for any other purpose must be included in the quotation for consideration and approval by the DIVISION. Upon award of the contract, the shipping terms will be F.O.B. Destination, Freight Prepaid with freight charges to be added to the invoice unless otherwise specified by the DIVISION.

3. SOLICITATION AMENDMENTS: All changes to this solicitation will be made through written addendum only. Bidders are cautioned not to consider verbal modifications.

4. PROPRIETARY INFORMATION: Suppliers are required to mark any specific information contained in their quote which is not to be disclosed to the public or used for purposes other than the evaluation of the quote. Each request for non-disclosure must be accompanied by a specific justification explaining why the information is to be protected. Pricing and service elements of any quote will not be considered proprietary. All material becomes the property of the state and may be returned only at the state's option. Quotes submitted may be reviewed and evaluated by any persons at the discretion of the state.

5. SAMPLES: Samples of item(s) specified in the RFQ, when required by DIVISION, must be furnished free of charge to DIVISION. Any items not destroyed by tests may, upon request made at the time the sample is furnished, be returned at the vendor's expense.

6. WARRANTY: The contractor agrees to warrant and assume responsibility for all products (including hardware, firmware, and/or software products) that it licenses, contracts, or sells to the State of Utah under this contract for a period of one year, unless otherwise specified and mutually agreed upon elsewhere in this contract. The contractor (seller) acknowledges that all warranties granted to the buyer by the Uniform Commercial Code of the State of Utah applies to this contract. Product liability disclaimers and/or warranty disclaimers from the seller are not applicable to this contract unless otherwise specified and mutually agreed upon elsewhere in this contract. In general, the contractor warrants that: (1) the product will

do what the salesperson said it would do, (2) the product will live up to all specific claims that the manufacturer makes in their advertisements, (3) the product will be suitable for the ordinary purposes for which such product is used, (4) the product will be suitable for any special purposes that the State has relied on the contractor's skill or judgement to consider when it advised the State about the product, (5) the product has been properly designed and manufactured, and (6) the product is free of significant defects or unusual problems about which the State has not been warned. Remedies available to the State include the following: The contractor will repair or replace (at no charge to the State) the product whose nonconformance is discovered and made known to the contractor in writing. If the repaired and/or replaced product proves to be inadequate, or fails of its essential purpose, the contractor will refund the full amount of any payments that have been made. Nothing in this warranty will be construed to limit any rights or remedies the State of Utah may otherwise have under this contract.

7. DIVISION APPROVAL: Purchase Orders placed, or contracts written, with the State of Utah, as a result of this RFQ, will not be legally binding without the appropriate signature of the DIVISION.

8. AWARD OF CONTRACT: (a) **This is an informal quotation which will not be read at a public opening;** however, the information may be publicly reviewed after award. To obtain a copy of this record (tabulation) you may either enclose a stamped self-addressed envelope, or review tabulation in our office. (b) The contract will be awarded with reasonable promptness, by written notice to the lowest responsible vendor that meets the specifications. Consideration will be given to the quality of the product(s) to be supplied, conformity to the specifications, the purpose for which required, delivery time required, discount terms and other criteria set forth in this request for quotation. (c) The DIVISION may accept any item or group of items, or overall low quote. (d) The DIVISION has the right to cancel this request for quotation at any time prior to the award of contract. (e) The DIVISION can reject any and all quotes or waive any informality, or technicality in any quote received, if the DIVISION believes it would serve the best interest of the State. (f) Before, or after, the award of a contract the DIVISION has the right to inspect the vendor's premises and all business records to determine the holder's ability to meet contract requirements. (g) Estimated quantities are for quoting purposes only, and not to be interpreted as a guarantee to purchase any amount. (h) Utah has a reciprocal preference law which will be applied against vendors quoting products or services produced in states which discriminate against Utah products. For details see Section 63-56 20.5 -20.6, Utah Code Annotated. (i) Multiple contracts may be awarded if the State determines it would be in its best interest.

9. ANTI-DISCRIMINATION ACT: The vendor agrees to abide by the provisions of the Utah Anti-discrimination Act, Title 34 Chapter 35, U.C.A. 1953, as amended, and Title VI and Title VII of the Civil Rights Act of 1964 (42 USC 2000e), which prohibit discrimination against any employee or applicant for employment, or any applicant or recipient of services, on the basis of race, religion, color, or national origin; and further agrees to abide by Executive Order No. 11246, as amended, which prohibits discrimination on the basis of sex; 45 CFR 90 which prohibits discrimination on the basis of age, and Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act of 1990, which prohibits discrimination on the basis of disabilities. Also vendor agrees to abide by Utah's Executive Order, dated March 17, 1993, which prohibits sexual harassment in the workplace. Vendor must include this provision in every subcontract or purchase order relating to purchases by the State of Utah to insure that the subcontractors and vendors are bound by this provision.

10. DEBARMENT: The CONTRACTOR certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (contract) by any governmental department or agency. If the CONTRACTOR cannot certify this statement, attach a written explanation for review by the STATE.

11. GOVERNING LAWS AND REGULATIONS: All state purchases are subject to the Utah Procurement Code, Title 63 Chapter 56 U.C.A. 1953, as

amended, and the Procurement Regulations as adopted by the Utah State Procurement Policy Board. These are available on the Internet at www.purchasing.utah.gov (Revision 14 Mar 2003 - RFQ Instructions)

REQUEST FOR BID
Public Information/Involvement Manager
700 E -- 400 S to 3300 S (SR 71; RP 15.98 to RP 20.01)
[STP-0071 (13) 16]

and
I-80 -- 1300 E to End of Pavement (I-80; RP 122.8 to RP 125.0)
[IM-80-3 (137) 123]

SOLICITATION # NO4075

PROJECT BACKGROUND AND DESCRIPTION

The Utah Department of Transportation plans to conduct two (2) projects in the Salt Lake City area. They are geographically close to one another and will take place almost at the same time. The first will occur on 700 East from 400 South to 3300 South and begin a few weeks before the second. The second project involves I-80 from 1300 East to the end of concrete pavement. Materials excavated from the first project will be incorporated and used as part of the second.

700 EAST FROM 400 SOUTH TO 3300 SOUTH

This segment of the project consists of rotomilling and repaving the surface of the 700 East roadway between 400 South and 3300 South, and adding a planter median from 900 South to 1300 South on the east side of Liberty Park. Although major construction is not associated with this project, it impacts dense, mixed-use neighborhoods in the middle of Salt Lake City. Additionally, 700 East is a surface street commute route used by many motorists who work in Salt Lake City's Downtown area.

Shopping centers and mixed-use businesses are located on 700 East around the 400 South, 500 South and 600 South (Trolley Square) intersections, as well as the 2100 South intersection. Freestanding businesses also are scattered among residences throughout the corridor. An elementary school is located on the corridor at 1700 South. Children from that school and others located close to the corridor, cross 700 East on their way to and from school. The Public Information Manager (PIM) will be responsible for meeting, first with businesses and schools to inform them about the project, then with residents. Flyers explaining the project will be produced by the PIM and distributed by construction crews to inform stakeholders along the project route in accordance with the construction contractor's specifications.

Although the time needed to complete the roadwork for this project is short (approximately three months), the nature of the work calls for crews to make three passes at all locations along the route; once to rotomill, once to repave, and once to paint stripes on the roadway. All northbound lanes will remain open Monday through Friday from 6 to 8:30 a.m. Southbound lanes will remain open Monday through Friday from 3 to 7 p.m. During working hours, two lanes will remain open in both directions. Major intersections at 2700 South, 2100 South, 1700 South, 1300 South, 900 South and 500 South will be closed, and detours will be in place, as construction moves through those areas. Work or lane restrictions will be lifted on holidays and holiday weekends.

I-80 FROM 1300 EAST TO END THE OF CONCRETE PAVEMENT

This project consists of resealing the joints on Interstate 80 from the 1300 E. structure (overpass) to the point where the concrete pavement ends, just west of Foothill Drive. In addition to the freeway joints, all ramps east of 1300 E. will receive joint repairs, including the 1300 East ramps and the on-and off-ramps to 2300 East. Guardrail will be replaced, and Texas turndowns (guardrail ends) in the area will be removed and replaced with crash cushions. Median drains will be raised and pre-cast concrete

barrier will be placed in the medians. (The medians will be filled with rotomill tailings from the 700 East from 400 S. to 3300 S. Project.) Construction work on the project will begin between late in April and continue for approximately 60 calendar days.

I-80 in this area runs through mixed residential and business neighborhoods. Stakeholders need to be informed about the kind of work that will take place and how it will affect them. Businesses will need to know traffic impacts associated with the project so they can plan ahead. Residents also need to know about the traffic impacts, and additionally, residents located in noise-sensitive areas should be informed about possible noise impacts associated with the project.

All lanes will be open on the freeway during peak hours, with varying lane restrictions at other times. No work or lane restrictions will be allowed on holidays, holiday weekends, or during special events. Because there is some noise associated with this project the contractor is currently only allowed to work 10 nights. If the noise can be mitigated to acceptable levels the nighttime schedule may be expanded. At key times the 1300 East and 2300 East ramps will be closed. Appropriate detours will be developed to handle traffic during those times. It will be the responsibility of the Public Information Manager to see that information about those detours is distributed to the appropriate stakeholders. The 1300 East ramp, in particular, is a sensitive location on this project as it is located directly adjacent to a large shopping center.

SCOPE OF WORK

The Public Information Manager (PIM) will perform public involvement and information duties connected with construction activities for the I-80 from 1300 East to the End of the Concrete Pavement/700 East from 400 South to 3300 South Projects for the duration of the project, a time period anticipated to be 17 weeks. The level of effort to complete this job is projected to take from a minimum of 500 hours, to a maximum not exceeding 700 hours. The PIM will coordinate information and public involvement activities for both locations with the construction contractors, the UDOT Resident Engineer, Darren Rosenstein and the Region Two Public Involvement Coordinator to facilitate communication and ensure smooth functioning of those activities on the project. Materials intended for distribution to the media must be approved *and distributed* by UDOT Community and Media Relations.

The primary contact for the PIM will be the Resident Engineer with the Project Manager, the Region Public Involvement Coordinator as secondary contacts. The PIM will coordinate closely with both construction contractors' Public Involvement Coordinators to organize and update schedule information and troubleshoot stakeholder issues. PIM activities for this project will begin five (5) workdays after notification of intent to award the contract to the low bid, which complies with the provisions of this bid. At that time, it will be necessary for the PIM to begin the process of coordinating construction information. The PIM will then begin contacting businesses and residents located in impacted areas, as well as key project stakeholders, to facilitate timely project information distribution.

QUALIFICATIONS

Due to the nature of the work involved, we will only consider proposals from individuals or companies that meet the following minimum requirements:

- Must have a thorough understanding of basic public relations principals and extensive experience utilizing those principals in successful PR campaigns and activities
- Must have working knowledge and understanding of Civil Engineering principles as related to the design and construction on similar roadway maintenance and safety projects.
- Must have experience working on government projects in a public relations or public involvement role.

- Must have experience organizing and facilitating successful partnering sessions for road construction projects.
- Must have experience working with construction contractors and an understanding of the roadway construction process

Briefly outline your experience in these areas and list contact information for at least three professional references that will verify your experience.

COMPENSATION

Compensation will be payable in regular intervals beginning with delivery of a work plan (see: Develop Public Involvement Plan) outlining, at minimum, the execution of provisions in this document. Compensation will be based on invoices submitted to the Region Two Administrator by the PIM contractor. Following award of the bid, an initial payment amount and requirements for regularly scheduled payments during the course of the contract will be negotiated. Invoices must detail the work by job location.

BID SUBMISSION

Please submit a bid detailing the total cost for the services outlined in this document and your plan for accomplishing those services. The cost of supplies, materials development and materials production connected with the services outlined in this document should be included in the bid (see Materials Detail section). UDOT will pay all postage costs.

DETAIL:

- **Develop a Public Involvement Plan** for both segments of this project using UDOT's Construction Public Involvement Plan template. The work plan shall coordinate PI activities for both segments of the project, including a plan for coordinating efforts with the two construction companies.
- **Administer Pre- and Post-Construction Surveys** for both locations. Survey residents and businesses affected, based on UDOT Region Two's pre- and post-construction survey "templates." The pre-construction survey will determine public opinion entering construction in order to modify public involvement procedures and identify potential public involvement/information (PI) problem areas. Tally the results of the pre-construction surveys. The post-construction survey will show the effectiveness of PI and construction contractor performance during construction.
- **Organize and facilitate a Partnering Workshop** for UDOT personnel and construction contractor crews associated with both projects, to establish effective procedures and lines of communication to ensure successful coordination of activities.
- **Coordinate with UDOT personnel and both construction contractors** to stay up-to-date on construction activities, schedules and Maintenance of Traffic plans.
 - Attend weekly meetings for both projects, with the Resident Engineer and the Construction Contractor's Public Information Contact, to review correspondence and communication logbook and to coordinate weekly construction schedule, and to identify and resolve stakeholder issues.
 - Maintain communication with the Resident Engineer and others associated with the projects as needed to keep them informed and to troubleshoot customer complaints.
 - Maintain and document weekly communication with the Region Public Involvement coordinator to advise of construction schedules and stakeholder issues.

- **Meet personally with residents and businesses** located adjacent to or in sensitive areas for both projects to discuss construction activities, gather comments and address concerns. Initiate and maintain communications with key stakeholders (including identified public officials) for the duration of the project, through personal visits, by telephone, or email. For the 700 East from 400 South to 3300 South, this includes stakeholders along the corridor and businesses on all legs of major intersections. For the I-80 from 1300 East to the end of the concrete pavement, this includes stakeholders who are adjacent to freeway exits or in noise-sensitive areas.
- **Develop and maintain individual Stakeholder contact information and databases** for each location of the project, to include names, mailing addresses, phone numbers, email addresses and fax numbers for use in distributing project materials and informing stakeholders.
- **Provide construction up-dates.**
 - Work with the construction contractors on both projects to compile construction update reports outlining scheduled construction activities at least one week in advance and distributed each week to the Region Public Involvement Coordinator and others identified during the course of the project.
 - Provide weekly updates for directly impacted stakeholders; local emergency services, public works, transit authorities and city offices; and other stakeholders (businesses, organizations and public agencies) identified by UDOT or the construction contractors, outlining construction activities on both projects that impact traffic or access to residences and/or businesses. (May be a combined update including information for both projects.)
 - Compile and package project-related information on both projects for distribution to media through the Region Public Involvement Coordinator and UDOT Community and Media Relations.
 - Document all weekly email and/or telephone communications for both projects.
- **Prepare construction information flyers** to be distributed by the construction contractor's crews for both projects to residents and businesses to inform them prior to the beginning of construction activities in their specific area. For 700 East from 400 South to 3300 South, this includes stakeholders along the corridor and businesses on all legs of major intersections. For I-80 from 1300 East to the End of the Concrete Pavement, this includes stakeholders who are adjacent to the freeway exits or in noise-sensitive areas.
- **All materials prepared for Public distribution must be pre -approved** by the Resident Engineer and Region Public Involvement Coordinator prior to distribution. Materials intended for distribution to the media must also be approved *and* distributed by UDOT Community and Media Relations.
- **Maintain a local business presence** with established working hours and days. (May be the PIM contractor's current office location, *if* that location is assessable to the project.)
 - Provide a dedicated contact phone with a local phone number and message machine for stakeholders, UDOT contacts, and construction contractor contacts for both projects during the course of the contract. (May be one phone number for both projects.)
 - May be a cell phone with voicemail
 - Distribute the phone number to contacts on both projects including stakeholders, the UDOT Community and Media Relations Office, the construction contractor, the

UDOT Resident Engineer, the Region Two Public Involvement Coordinator and the Project Manager.

- Maintain on-call status during non-working hours.
- Follow-up on all stakeholder concerns within 24 hrs.

- **Provide Project Reports**

- Compile and submit a *brief* report with each invoice to the Project Manager and Region Public Involvement Coordinator that includes:
 - A record of all stakeholder contacts, follow-up, and status for both projects
 - A tally of time spent and project activities on both projects for the invoice period
- Compile and distribute a separate post project report for each project to the Project Manager and Region Public Involvement Coordinator that includes at minimum:
 - An overview of public information and public involvement activities from the beginning to the end of the project.
 - A record of all stakeholder contacts
 - A record of all stakeholder questions and concerns
 - A record of all follow-up and resolutions to stakeholder issues
 - An analysis of what worked well and lessons learned that would help UDOT improve public information and public involvement on subsequent projects.
 - A database (in Microsoft Access format) of project contacts including the names, addresses, phone numbers and email addresses of stakeholders and all project contacts.
- **Other Public Information/Involvement duties** as needed and requested by the UDOT Resident Engineer, Project Manager or Region Public Involvement Coordinator.

MATERIALS TO BE PRODUCED FOR THIS PROJECT

- **Pre- and Post-Construction Surveys**

- 4 surveys—pre- and post-construction for both projects (survey instrument provided by UDOT)
- Print 250 each
- 2-sided with cover letter (cover letter provided by UDOT)
- Black and white
- Containers (envelopes, door hangers or clasps) for survey distribution

- **Fliers**

- Print informational fliers using a separate template for each project (developed by the PIM, distributed by the construction contractors) that can be modified as information changes on each project
- Print 100 copies per run (not to exceed 4000 copies total)
- 1-sided
- Black and white on colored paper

- **Business/Project Contact Cards (combining both projects)**

- Print 500 cards
- 1-sided
- Black and white
- Card stock

ATTACHMENT A: STANDARD TERMS AND CONDITIONS

1. **AUTHORITY:** Provisions of this contract are pursuant to the authority set forth in 63-56, Utah Code Annotated, 1953, as amended, Utah State Procurement Rules (Utah Administrative Code Section R33), and related statutes which permit the State to purchase certain specified services, and other approved purchases for the State.
2. **CONTRACT JURISDICTION, CHOICE OF LAW, AND VENUE:** The provisions of this contract shall be governed by the laws of the State of Utah. The parties will submit to the jurisdiction of the courts of the State of Utah for any dispute arising out of this Contract or the breach thereof. Venue shall be in Salt Lake City, in the Third Judicial District Court for Salt Lake County.
3. **LAWS AND REGULATIONS:** Any and all supplies, services and equipment furnished will comply fully with all applicable Federal and State laws and regulations.
4. **RECORDS ADMINISTRATION:** The Contractor shall maintain, or supervise the maintenance of all records necessary to properly account for the payments made to the Contractor for costs authorized by this contract. These records shall be retained by the Contractor for at least four years after the contract terminates, or until all audits initiated within the four years, have been completed, whichever is later. The Contractor agrees to allow State and Federal auditors, and State Agency Staff, access to all the records to this contract, for audit and inspection, and monitoring of services. Such access will be during normal business hours, or by appointment.
5. **CONFLICT OF INTEREST:** Contractor represents that none of its officers or employees are officers or employees of the State of Utah, unless disclosure has been made in accordance with 67-16-8, Utah Code Annotated, 1953, as amended.
6. **CONTRACTOR, AN INDEPENDENT CONTRACTOR:** The Contractor shall be an independent contractor, and as such, shall have no authorization, express or implied, to bind the State to any agreements, settlements, liability, or understanding whatsoever, and agrees not to perform any acts as agent for the State, except as herein expressly set forth. Compensation stated herein shall be the total amount payable to the Contractor by the State. The Contractor shall be responsible for the payment of all income tax and social security amounts due as a result of payments received from the State for these contract services. Persons employed by the State and acting under the direction of the State shall not be deemed to be employees or agents of the Contractor.
7. **INDEMNITY CLAUSE:** The Contractor agrees to indemnify, save harmless, and release the State OF UTAH, and all its officers, agents, volunteers, and employees from and against any and all loss, damages, injury, liability, suits, and proceedings arising out of the performance of this contract which are caused in whole or in part by the negligence of the Contractor's officers, agents, volunteers, or employees, but not for claims arising from the State's sole negligence.
8. **EQUAL OPPORTUNITY CLAUSE:** The Contractor agrees to abide by the provisions of Title VI and VII of the Civil Rights Act of 1964 (42USC 2000e) which prohibits discrimination against any employee or applicant for employment or any applicant or recipient of services, on the basis of race, religion, color, or national origin; and further agrees to abide by Executive Order No. 11246, as amended, which prohibits discrimination on the basis of sex; 45 CFR 90 which prohibits discrimination on the basis of age; and Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act of 1990 which prohibits discrimination on the basis of disabilities. Also, the Contractor agrees to abide by Utah's Executive Order, dated March 17, 1993, which prohibits sexual harassment in the work place.
9. **SEPARABILITY CLAUSE:** A declaration by any court, or any other binding legal source, that any provision of this contract is illegal and void shall not affect the legality and enforceability of any other provision of this contract, unless the provisions are mutually dependent.
10. **RENEGOTIATION OR MODIFICATIONS:** This contract may be amended, modified, or supplemented only by written amendment to the contract, executed by the same persons or by persons holding the same position as persons who signed the original agreement on behalf of the parties hereto, and attached to the original signed copy of the contract.
11. **DEBARMENT:** The Contractor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (contract), by any governmental department or agency. If the Contractor cannot certify this statement, attach a written explanation for review by the State. The Contractor must notify the State Director of Purchasing within 30 days if debarred by any governmental entity during the Contract period.
12. **TERMINATION:** Unless otherwise stated in the Special Terms and Conditions, this contract may be terminated, with cause by either party, in advance of the specified termination date, upon written notice being given by the other party. The party in violation will be given ten (10) working days after notification to correct and cease the violations, after which the contract may be terminated for cause. This contract may be terminated without cause, in advance of the specified expiration date, by either party, upon 90 days prior written notice being given the other party. On termination of this contract, all accounts and payments will be processed according to the financial arrangements set forth herein for approved services rendered to date of termination.
13. **NONAPPROPRIATION OF FUNDS:** The Contractor acknowledges that the State cannot contract for the payment of funds not yet appropriated by the Utah State Legislature. If funding to the State is reduced due to an order by the Legislature or the Governor, or is required by State law, or if federal funding (when applicable) is not provided, the

State may terminate this contract or proportionately reduce the services and purchase obligations and the amount due from the State upon 30 days written notice. In the case that funds are not appropriated or are reduced, the State will reimburse Contractor for products delivered or services performed through the date of cancellation or reduction, and the State will not be liable for any future commitments, penalties, or liquidated damages.

14. **SALES TAX EXEMPTION:** The State of Utah's sales and use tax exemption number is E33399. The tangible personal property or services being purchased are being paid from State funds and used in the exercise of that entity's essential functions. If the items being purchased are construction materials, they will be converted into real property by employees of this government entity, unless otherwise stated in the contract.
15. **WARRANTY:** The contractor agrees to warrant and assume responsibility for all products (including hardware, firmware, and/or software products) that it licenses, contracts, or sells to the State of Utah under this contract for a period of one year, unless otherwise specified and mutually agreed upon elsewhere in this contract. The contractor (seller) acknowledges that all warranties granted to the buyer by the Uniform Commercial Code of the State of Utah apply to this contract. Product liability disclaimers and/or warranty disclaimers from the seller are not applicable to this contract unless otherwise specified and mutually agreed upon elsewhere in this contract. In general, the contractor warrants that: (1) the product will do what the salesperson said it would do, (2) the product will live up to all specific claims that the manufacturer makes in their advertisements, (3) the product will be suitable for the ordinary purposes for which such product is used, (4) the product will be suitable for any special purposes that the State has relied on the contractor's skill or judgment to consider when it advised the State about the product, (5) the product has been properly designed and manufactured, and (6) the product is free of significant defects or unusual problems about which the State has not been warned. Remedies available to the State include the following: The contractor will repair or replace (at no charge to the State) the product whose nonconformance is discovered and made known to the contractor in writing. If the repaired and/or replaced product proves to be inadequate, or fails of its essential purpose, the contractor will refund the full amount of any payments that have been made. Nothing in this warranty will be construed to limit any rights or remedies the State of Utah may otherwise have under this contract.
16. **PUBLIC INFORMATION:** Contractor agrees that the contract will be a public document, and may be available for distribution. Contractor gives the State express permission to make copies of the contract and/or of the response to the solicitation in accordance with the State of Utah Government Records Access and Management Act. The permission to make copies as noted will take precedence over any statements of confidentiality, proprietary information, copyright information, or similar notation.
17. **DELIVERY:** Unless otherwise specified in this contract, all deliveries will be F.O.B. destination with all transportation and handling charges paid by the Contractor. Responsibility and liability for loss or damage will remain with Contractor until final inspection and acceptance when responsibility will pass to the State except as to latent defects, fraud and Contractor's warranty obligations.
18. **ORDERING AND INVOICING:** All orders will be shipped promptly in accordance with the delivery schedule. The Contractor will promptly submit invoices (within 30 days of shipment or delivery of services) to the State. The State contract number and/or the agency purchase order number shall be listed on all invoices, freight tickets, and correspondence relating to the contract order. The prices paid by the State will be those prices listed in the contract. The State has the right to adjust or return any invoice reflecting incorrect pricing.
19. **PAYMENT:** Payments are normally made within 30 days following the date the order is delivered or the date a correct invoice is received, whichever is later. All payments to the Contractor will be remitted by mail unless paid by the State of Utah's Purchasing Card.
20. **PATENTS, COPYRIGHTS, ETC.:** The Contractor will release, indemnify and hold the State, its officers, agents and employees harmless from liability of any kind or nature, including the Contractor's use of any copyrighted or un-copyrighted composition, secret process, patented or un-patented invention, article or appliance furnished or used in the performance of this contract.
21. **ASSIGNMENT/SUBCONTRACT:** Contractor will not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this contract, in whole or in part, without the prior written approval of the State.
22. **DEFAULT AND REMEDIES:** Any of the following events will constitute cause for the State to declare Contractor in default of the contract: 1. Nonperformance of contractual requirements; 2. A material breach of any term or condition of this contract. The State will issue a written notice of default providing a ten (10) day period in which Contractor will have an opportunity to cure. Time allowed for cure will not diminish or eliminate Contractor's liability for damages. If the default remains, after Contractor has been provided the opportunity to cure, the State may do one or more of the following: 1. Exercise any remedy provided by law; 2. Terminate this contract and any related contracts or portions thereof; 3. Impose liquidated damages, if liquidated damages are listed in the contract; 4. Suspend Contractor from receiving future solicitations.

23. **FORCE MAJEURE:** Neither party to this contract will be held responsible for delay or default caused by fire, riot, acts of God and/or war which is beyond that party's reasonable control. The State may terminate this contract after determining such delay or default will reasonably prevent successful performance of the contract.
24. **PROCUREMENT ETHICS:** The Contractor understands that a person who is interested in any way in the sale of any supplies, services, construction, or insurance to the State of Utah is violating the law if the person gives or offers to give any compensation, gratuity, contribution, loan or reward, or any promise thereof to any person acting as a procurement officer on behalf of the State, or who in any official capacity participates in the procurement of such supplies, services, construction, or insurance, whether it is given for their own use or for the use or benefit of any other person or organization (63-56-73, Utah Code Annotated, 1953, as amended).
25. **CONFLICT OF TERMS:** Contractor Terms and Conditions that apply must be in writing and attached to the contract. No other Terms and Conditions will apply to this contract including terms listed or referenced on a Contractor's website, terms listed in a Contractor quotation/sales order, etc. In the event of any conflict in the contract terms and conditions, the order of precedence shall be: 1. State Standard Terms and Conditions; 2. State Special Terms and Conditions; 3. Contractor Terms and Conditions.

(Revision date: Nov 21, 2003)